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TAGS: ECON ECPS PREL YI

SUBJECT: KOSOVO: UNMIK/PISG SELECT NEW WINNER OF SECOND
MOBILE TENDER AFTER KOSMOCELL FAILS TO MAKE PAYMENT

REF: (A) PRISTINA 114 (B) 06 PRISTINA 219 (C) 06

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Classified By: COM TINA KAIDANOW FOR REASONS 1.4(B) AND (D)

¶1. (SBU) Summary: The Kosovo Telecommunications Regulatory Authority (TRA) recently announced the consortium of Telecom Slovenia/Ipkko/Albright Group as the winner of the second mobile tender after the initial winner Kosmocell was unable to make its payment for the operating license. The consortium of Mobilkom Austria and American company Columbia Ventures Corporation (CVC) have complained about the awarding of the tender, noting irregularities and a lack of transparency in the evaluation of the bids. Austrian Mobilkom has filed a lawsuit in a Kosovo court to protest the latest decision. UNMIK, however, has told us and stated publicly that the evaluation and awarding of the tender was a fair and transparent process. Media reports claim there was collusion between Kosmocell and Telecom Slovenia, alleging that Kosmocell owner Ekrem Lluka was paid by the Slovenian company not to make its payment so its consortium could be declared the winner. Having annulled the initial second mobile tender in 2004, UNMIK, using outside consultants, was more involved this time in overseeing the process. What remains a concern is the violence directed at some of the main actors involved, including TRA head Anton Berisha. We will encourage UNMIK and the Kosovo Police Service (KPS) to aggressively pursue investigation into these incidents. End Summary.

TELECOM SLOVENIA/IPKO/ALBRIGHT GROUP CONSORTIUM ANNOUNCED AS
NEW WINNER OF THE MOBILE TENDER

¶2. (U) On February 20, The Kosovo Telecommunications Regulatory Authority (TRA) announced the consortium of Telecom Slovenia (Slovenia), Ipko (Kosovo) and Albright Group (USA) as the new winner of the second mobile phone tender, pending the payment of 75 million euros it pledged for the operating license. According to the TRA, Kosmocell was unable to pay the 81 million euros it bid for the operating license (Ref A). On February 22, the Telecom Slovenia/Ipkko/Albright Group consortium paid the licensing fee and held a signing ceremony on March 6.

AUSTRIAN MOBILKOM/CVC CONSORTIUM COMPLAINS ABOUT THE LATEST DECISION AND FILE A LAWSUIT...

¶3. (SBU) The consortium of Austrian Mobilkom and Columbia Ventures Corporation (CVC), which came in third in the overall process, has complained about the TRA decision. Local media reported that Austrian Mobilkom said there were irregularities in the formula to evaluate the financial qualifications, alleging that the evaluation committee did not use the equation in line with international practice to calculate, score and rank the bids. (Note: PISG officials said that CVC complained to PM Ceku's office and requested an independent evaluation of the entire process by an international auditing firm. End Note) Austrian Mobilkom also complained about the lack of transparency in the process, noting that the bids were not opened in a public session. Austrian Mobilkom has filed a lawsuit for 100 million euros for damages in a Kosovo court to protest the latest decision and has requested a new tendering process for the second mobile operating license.

...BUT UNMIK CLAIMS THE EVALUATION PROCESS WAS FAIR AND TRANSPARENT

¶4. (SBU) Ernst Tschoepke, Senior Legal Officer for UNMIK's Office of Legal Affairs, and member of the UNMIK/PISG Special Supervisory Committee (SSC) for the second mobile tender, told econoff on March 9 that the evaluation process was conducted in a fair, meticulous manner, free from outside pressure. He said the SRSG designated two, reputable international experts to participate in the evaluation commission. Tschoepke explained that UNMIK and PISG officials chose not to have the bids opened in public to protect the confidentiality of the competitors' bids, but diplomatic liaison offices were invited to observe the evaluation process to provide further oversight. He noted that the competitors were informed about the results of their respective bids at the end of the evaluation process. On March 12, Tschoepke and UNMIK Pillar IV (economic policy) Senior Legal Advisor Johan Van Loeman, also a member of the SSC, made public statements defending the fairness, transparency and oversight of the entire tendering process.

LOCAL MEDIA REPORTS POSSIBLE COLLUSION BETWEEN KOSMOCELL AND TELECOM SLOVENIA

¶5. (C) Local media have reported possible collusion between Kosmocell and Telecom Slovenia. Press reports alleged that Kosmocell owner Ekrem Lluka was paid 10 million euros by Telecom Slovenia not to make the payment so that the Telecom Slovenia/Ipko/Albright Group consortium would be declared the winner. Representatives of Kujtesa, part of the Kosmocell consortium that was the original winner, recently claimed to USOP that the consortium had the 81 million euros and was ready to pay the licensing fee, but Lluka had then informed TRA head Anton Berisha that his group was unable to make the payment. Kujtesa representatives noted that its company and consortium partner Eutelia (Italy) claimed they had no idea that Lluka would take such action. Post has no way of verifying such allegations, and has been shown no proof that the Kosmocell consortium actually had the money in hand.

KOSOVARS LINKING SUSPICIOUS VIOLENT ACTS TO TENDER DEVELOPMENTS

¶6. (SBU) The local media and some Kosovar businesses are linking recent suspicious violent acts to the latest developments in the second mobile tendering process. On February 28, local media reported that the Kosovo Police Service (KPS) said that unknown assailants shot at TRA head Berisha's car as he was traveling from the western town of Pec/Peja to Pristina. Some newspapers alleged that with the awarding of the tender to a new consortium, some disgruntled companies or their associates may have targeted Berisha. Local media also reported that grenades were thrown at the house of Mazllum Sahiti, Vice-President of the Dukagjini Group (Lluka's company) and a known associate of Lluka, on February 18 and 26. Some local businessmen believe that Lluka could have double-crossed several companies that might have had potential business deals with him by not informing

them that his consortium didn't have the money it pledged for the operating license.

¶7. (C) Comment: UNMIK, drawing on its experience with the abortive initial attempt at the second mobile tender in 2004, was more active in overseeing the process this time around. While the tender process was not particularly elegant, it appears to have met the criteria of fairness and transparency. What concerns us more are the recent acts of violence against people linked to the tender process. We will encourage UNMIK and KPS to investigate aggressively these regrettable incidents. The tender process generally continues to receive a lot of attention here, with the Kosovo Assembly holding hearings on March 16 and more media speculation likely. We will continue to monitor this issue.
End Comment.

KAIDANOW